

Message Text

CONFIDENTIAL

PAGE 01 BRASIL 02148 301635Z

43

ACTION ARA-20

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SPC-03 SS-20

USIA-15 IO-14 AID-20 PC-10 DRC-01 NIC-01 /141 W

----- 029182

R 301515Z MAR 74

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 2520

INFO AMEMBASSY SANTIAGO

AMCONSUL RECIFE

AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

C O N F I D E N T I A L BRASILIA 2148

E.O. 11652: XGDS-1

TAGS: PINT PFOR BR

SUBJ: LEGAL ACTION BROUGHT AGAINST OPPOSITION DEPUTY

1. LEGAL ACTION IN NAME OF JUSTICE MINISTER ARMANDO FALCAO IS BEING BROUGHT AGAINST MDB AUTENTICO DEPUTY FRANCISCO PINTO, FOR REMARKS HE MADE IN CHAMBER MARCH 14 BLASTING PRESENCE IN BRAZIL OF CHILEAN JUNTA CHIEF GENERAL PINOCHET, WHOM PINTO CALLED A FASCIST AND A MASS MURDERER COMPARABLE TO LIEUTENANT CALLEY. ANSWERING ALLEGATIONS THAT ALLENDE HAD SOLD OUT TO RUSSIA AND CUBA, PINTO ALSO ASKED, "AND PINOCHET--TO WHOM DID HE SELL HIMSELF? AND WHOM DOES HE WANT TO BUY NOW, MR. PRESIDENT, WHEN HE ANNOUNCES THAT HE BRINGS WITH HIM THE INTENTION OF FORMING A POLITICAL AXIS--BRAZIL, BOLIVIA, CHILE, PARAGUAY. POLITICAL AXIS FOR WHAT? AND TO SERVE WHOM?" PINTO'S COMMENTS CONCLUDED WITH A REFERENCE TO "... THOSE WHO BETRAY THE NATION THERE AND HERE."

2. ACTION, WHICH WILL FIRST GO TO SUPREME COURT FOR DECISION ON WHETHER COURT WILL ACCEPT CASE (IT IS EXPECTED TO), IS BASED ON ARTICLE 21 OF NATIONAL SECURITY LAW, WHICH
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BRASIL 02148 301635Z

PROVIDES A PENALTY OF TWO TO SIX YEARS IN PRISON FOR

"OFFENDING PUBLICLY, ORALLY OR IN WRITING, THE CHIEF OF A FOREIGN NATION." ARTICLE 32 OF THE CONSTITUTION PROVIDES THAT CONGRESSIONAL IMMUNITIES DO NOT EXIST FOR (INTER ALIA) "CASES STIPULATED IN THE NATIONAL SECURITY LAW."

3. FALCAO HAS EXPLAINED HIS ACTION IN PROVIDING PRIOR NOTICE OF ACTION TO CHAMBER PRESIDENT FLAVIO MARCILIO AND CHAMBER MAJORITY LEADER CELIO BORJA AS A COURTESY. MARCILIO HAS PUBLICLY REITERATED THAT ACTION IS STRICTLY BETWEEN GOVERNMENT AND INDIVIDUAL MEMBER OF CHAMBER FALCAO, WHO HAS SAID HE WILL MAKE NO PUBLIC DECLARATIONS ON SUBSTANCE OF CASE, ISSUED STATEMENT CALLING ACTION "LEGITIMATE AND OBLIGATORY," QUOTING RELEVANT PORTION OF NATIONAL SECURITY LAW AND CITING CONGRESSIONAL RECORD (WHICH PUBLISHED PINTO'S REMARKS) AS EVIDENCE. (ON TELEVISION LAST NIGHT, FALCAO ALSO CALLED IT "INADEQUATE TO SPEAK OF DECOMPRESSION IN A DECOMPRESSED COUNTRY," THUS CONTRIBUTING TO APPREHENSIONS IN THE CONGRESS SPARKED BY THE MOVE AGAINST PINTO.)

4. MDB DELAYED SIGNIFICANT REACTION UNTIL AFTER MEETING OF LEADERSHIP, FOLLOWING WHICH IT ISSUED STATEMENT PROTESTING "THIS FURTHER ASSAULT" ON INSTITUTION OF PARLIAMENTARY IMMUNITIES ESSENTIAL TO INDEPENDENT LEGISLATURE. CALLING GOVERNMENT REACTION "DISPRPORTIONATE," STATEMENT POINTED OUT THAT PINTO'S REMARKS SUBJECT TO CONSTITUTIONAL NORMS.

5. LAST POINT IS CENTER OF RELATED "MINI-ISSUE" REGARDING WHETHER REMARKS SHOULD NOT HAVE BEEN CENSORED OUT OF CONGRESSIONAL RECORD. ACCORDING TO ONE NEWSPAPER, PINTO WAS ASKED PRIOR TO PUBLICATION IF HE DID NOT WISH TO RECONSIDER, BUT HE STOOD BY HIS TEXT. IN FACT, RELEVANT PORTION OF CONSTITUTION (ARTICLE 30) PROHIBITS PUBLICATION BY HOUSES OF CONGRESS OF VARIOUS KINDS OF MATERIAL BUT OFFENSE TO FOREIGN CHIEF OF STATE NOT SPECIFICALLY INCLUDED.

6. ANOTHER RELATED ISSUE IS FACT THAT IF COURT ACCEPTS CASE BUT DECISION NOT MADE BEFORE DEADLINE FOR FILING FOR ELECTIONS NEXT NOVEMBER, PINTO WILL BE INELIGIBLE FOR RE-ELECTION EVEN IF FOUND INNOCENT.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BRASIL 02148 301635Z

7. COMMENT: UNDER THE TERMS OF THE NATIONAL SECURITY LAW, HE SEEMS GUILTY ENOUGH. ONE ANSWER TO THE QUESTION OF WHY THE GOVERNMENT MOVED, THEN, IS THAT IT VIRUTALLY HAD TO; EVEN MILITANT MDB SENATOR FRANCO MONOTORO, WHO HIMSELF ENJOYS A REPUTATION FOR SPEAKING OUT IN THE CONGRESS, PRIVATELY TOLD POLCOUNS THAT PINTO'S REMARKS WERE PROVOCATIVE AND THAT THE GOVERNMENT'S REACTION IN MOVING THROUGH THE LAW APPEARED MEASURED. THE ACTION STILL SEEMS

CERTAIN TO DASH--OR AT LEAST QUALIFY--MANY OF THE HOPES CREATED BY INITIATIVES OF GEISEL ADMINISTRATION LEADERS BOTH BEFORE AND SINCE INAUGURATION, AND THE GOVERNMENT CAN ONLY HAVE REALIZED THAT MANY WOULD NOW, IF ONLY IN PRIVATE, FAIRLY OR NOT, QUESTION THE SINCERITY OF, FOR EXAMPLE, GEISEL'S OWN CALL FOR A BROADER DIALOGUE. (FOR ITS PART THE CHILEAN EMBASSY HERE IS STOUTLY DENYING BOTH PUBLICLY AND PRIVATELY THAT IT PUT THE GOVERNMENT UP TO IT. IT IS BEING RECALLED IN THE PRESS, HOWEVER, THAT PINOCHET'S SECURITY MEN EXPRESSED KFXMJ ZBAST IN DEPUTY PINTO ON INAUGURATION DAY, I.E., THE DAY AFTER PINTO MADE THE REMARKS IN QUESTION.)

8. THERE IS LITTLE DOUBT IN OUR MINDS THAT THE SPECIFIC PROVOCATION THAT MOVED THE GOVERNMENT WAS LESS THE OFFENSES TO PINOCHET THAN PINTO'S IMPLICATIONS ABOUT SELLING NATIONS AND HIS REFERENCE TO "THOSE WHO BETRAY THE NATION, THERE AND HEREMZ FOREIGN MINISTER SILVEIRA'S ASSERTION ON TELEVISION LAST NIGHT THAT BRAZIL IS NOT "SATELLITIZABLE" IS ANOTHER REFLECTION OF THE GOB'S SENSITIVITY ON THE POINT, AND MAY WELL BE RELATED TO THE PINTO CASE.

9. IN FACT, THE GOVERNMENT ACTION, A KIND OF WARNING SHOT ACROSS THE COLLECTIVE CONGRESSIONAL BOW, APPEARS ALMOST CHARACTERISTIC OF THE GEISEL ADMINISTRATION SO FAR. AS HAS BEEN WIDELY ACKNOWLEDGED HER, IT IS SIGNIFICANT THAT THE GOVERNMENT IS PROCEEDING IN THIS CASE THROUGH ESTABLISHED, CONSTITUTIONAL, INSTITUTIONALIZED CHANNELS INSTEAD OF HAVING RECOURSE TO THE FAR SIMPLER AND MORE EXPEDIENT EXCEPTIONAL MEASURES. ON THE ONE HAND, THEN, THERE IS THIS STEP TOWARD "NORMALITY." ON THE OTHER, THE GOVERNMENT IS SIGNALLING THAT ITS TOLERANCE IS NOT TO BE PRESUMED UPON.

CONFIDENTIAL

CONFIDENTIAL

PAGE 04 BRASIL 02148 301635Z

CRIMMINS

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LEGISLATORS, CRIMES, CENTRAL LEGISLATURE, SPEECHES, OPPOSITION PARTIES, POLITICAL FREEDOM, HEAD OF GOVERNMENT VISITS, FOREIGN POLICY POSITION
Control Number: n/a
Copy: SINGLE
Draft Date: 30 MAR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974BRASIL02148
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: X1
Errors: N/A
Film Number: D740071-0054
From: BRASILIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t1974031/aaaaaata.tel
Line Count: 155
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 09 SEP 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09 SEP 2002 by boyleja>; APPROVED <27 JAN 2003 by GolinoFR>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LEGAL ACTION BROUGHT AGAINST OPPOSITION DEPUTY
TAGS: PINT, PFOR, BR, (PINTO, FRANCISCO), (PINOCHET, AUGUSTO)
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005